BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

SINGLE BENCH

WRIT PETITION NO. 2561 /2006

PETITIONERS

1. Gurudarshan Singh, aged about 36 years, son of Shri Harbhajan Singh, resident of Tulsipur, Sangam Chowk, Rajnandgaon (Chhattisgarh)
2. Smt. Khairunissa, wife of Mohd. Mudassir, D/o. Ismile Noor, aged about 38 years, resident of Shanti Nagar, Ward No.4, Rajnandgaon (C.G.)
3. Ku. Anita Manikpuri, daughter of U.D. Manikpur, aged about 35 years, R/o Near Paras Furniture Mart, Chaukhariyapara, Rajnandgaon (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through - the Secretary, Department of Urban Administration Department, Dau Kalyan Singh Bhawan, Mantralay, Raipur (C.G.)
2. Municipal Corpor, Rajnandgaon, through – its Commissioner, Rajnandgaon (C.G.)
3. Thakur Pyarelal Singh Higher Secondary School Through its Principal, Rajnandgaon (C.G.)
4. S.D.M. High Secondary School, through – its Principal, Rajnandgaon (C.G.)

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P.R. No. 2460/06
Presented by Shri Abhishek Singh
5/5/06
dated

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WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT / WRITS, ORDER / ORDERS, DIRECTION / DIRECTIONS IN THE NATURE OF MANDAMUS / CERTIORARY / PROHIBITION ETC.

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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 2561 of 2006

Petitioners : Gurudarshan Singh & others

Versus

Respondents : State of Chhattisgarh & others

Shri Abhishek Sharma, Advocate for the petitioners.

Smt. Anju Ahuja, Deputy Govt. Advocate for the respondent No.1.

None for the respondents No. 2, 3 and 4.

ORDER

(Passed on this 19th day of January, 2007)

1. The petitioners have filed this petition for seeking quashing of the order dated 16.5.2005 (Annexure P/1) whereunder the respondent No.1 has considered and decided the representation of the petitioners in accordance with law, in compliance of the order dated 22.9.2004 (Annexure P/3) passed by this Court in W. P. No. 1334/2002.

2. Learned counsel appearing for the petitioners submits that the petitioner No.1 (Gurudarshan Singh) was appointed on the post of Upper Division Teacher (English) vide order dated 13.7.1995 for a period of 89 days on a fixed pay of Rs. 1400/-, the petitioner No.2 (Smt. Khairunissa) was appointed as Teacher on 13.7.1995 for a period of 89 days on a fixed pay of Rs. 1400/- and the petitioner No.3 (Ku. Anita Manikpuri) was appointed on the post of Shiksha Karmi Grade–II on 14.10.1996 on a fixed pay of Rs. 700/- for a period of two months. He further submits that thereafter the petitioners were continued in service by various further appointment orders and their appointments were recommended by the school education committee but under the policy decision of the State Government to terminate

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the services of daily wagers/temporary employees, engaged after 31.12.1988, vide order dated 27.4.2000 the services of the petitioners were put to an end.

3. The contention of learned counsel for the petitioners is that the order impugned, passed on the representation is bad on account of the fact that the reasons stated by the respondent No.1 that the appointment of the petitioners were during the ban period, but in fact there was no ban when the appointments of the petitioners were made. To substantiate his contention, learned counsel for the petitioner referred to the order dated 14th February, 2000 (Annexure P/19), issued by the General Administration Department, and stated that the petitioners were working in education institutions which were excluded from the institutions on which ban was imposed for appointments.

4. Be that as it may, the services of the petitioners were never regularized and they were engaged time to time only for two - three months on daily wages basis.

5. In view of the settled position of law as enunciated by a Constitutional Bench of the Supreme Court in the case of ***Secretary, State of Karnataka and others Vs. Umadevi***[1] which was followed later on in various decisions by the Supreme Court, viz. ***Accounts Officer (A&I) A.P.SRTC and others vs. P. Chandra Sekhara Rao and others***[2], ***Surinder Prasad Tiwari vs. U.P. Rajya Krishi Utpadan Mandi Parishad and others***[3], ***Nagar Mahapalika (now Municipal Corpn.) vs. State of U.P. and others***[4] and ***U.P. State Road Transport Corporation vs. Man Singh***[5], daily rated, temporary or ad hoc appointees have no right to the post as their appointment was not in accordance with the constitutional scheme of

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the appointment and not in accordance with any Rules, Regulations, as framed under the proviso to Article 309 of the Constitution of India.

6. In the present petition, appointments of the petitioners were on daily wages basis on availability of work, de-hors the constitutional scheme and as such, the appointments of the petitioners came to an end.

7. For the reasons above-stated and as per the dicta laid down by the Supreme Court, the petitioners are not entitled for reappointment/reinstatement in the service.

9. This petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (2006) 4 SCC 1
2 (2006) 7 SCC 488
3 (2006) 7 SCC 684
4 2006 AIR SCW 2497
5 2006 AIR SCW 5159

Thakur